



County of Los Angeles  
**CHIEF ADMINISTRATIVE OFFICE**

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012  
(213) 974-1101  
<http://cao.co.la.ca.us>

DAVID E. JANSSEN  
Chief Administrative Officer

June 21, 2005

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**THREE-YEAR LEASE  
INTERNAL SERVICES DEPARTMENT  
LOCAL RECOVERY DATA CENTER  
1400 SOUTH GRAND AVENUE, SANTA ANA  
(ALL DISTRICTS) (3 VOTES)**

**JOINT RECOMMENDATION WITH DIRECTOR OF INTERNAL SERVICES THAT  
YOUR BOARD:**

1. Approve and instruct the Chair to sign the attached three-year lease with the County of Orange (Lessor), for approximately 1,791 square feet of data center space and four surface parking spaces for the Internal Services Department (ISD), Local Recovery Center at the initial annual base rent of \$254,460 and a one-time lump-sum payment not to exceed \$95,000 for Tenant Improvements (TI). The lease costs will be 100 percent offset by income received from ISD customer computer utilization.
2. Authorize the Chief Administrative Office (CAO) to lease up to 600 square feet of additional space for future expansion at the prevailing fixed rental rate as provided in the lease or an amount not to exceed \$7,104 per month pursuant to a right of first refusal to lease additional space.
3. Find that the lease is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Class 1, Section r, of the Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, and Section 15061 (b) (3) of the State CEQA Guidelines.

Board of Supervisors  
GLORIA MOLINA  
First District

YVONNE B. BURKE  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

4. Approve the project and authorize the CAO and ISD to implement the project. The lease will be effective upon approval by your Board and the rent will commence upon County acceptance of the TI.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The Orange County facility located in Santa Ana will house the Local Recovery Center as an emergency contingency site for the Los Angeles County main data center located at 9150 East Imperial Highway, Downey. To reasonably ensure both facilities are not impacted by a single event, the proposed facility is located more than 20 miles from the Downey Data Center, yet remains within a reasonably accessible proximity as recommended by ISD consultants.

This action allows ISD to complete a recommendation identified by the Auditor-Controller to strengthen the County's data processing data center and provide for continued operations of County mission-critical applications in the event of a disaster. Along with this request to lease data center space, ISD will be submitting a separate request to purchase computer equipment for the Local Recovery Center for review and approval by your Board. The Chief Information Office has reviewed and approved ISD plans for development of a Local Recovery Center.

The advantages of a Local Recovery Center can be best illustrated by comparing the current disaster recovery environment with the proposed environment.

#### **The Current Environment:**

ISD operates two major types of computer platforms for County applications; mainframe computers and servers.

For mainframe computers, ISD has what are referred to as "hot-site" disaster recovery agreements with SunGard Recovery Services and there is a separate agreement for IBM and UNISYS operations. Essentially, these agreements provide back-up mainframe computers in a data center space on a first come first served basis should there be a disaster that disables the Downey Data Center. The IBM hot-site is in Philadelphia, Pennsylvania and the UNISYS hot-site is in Warminster, Pennsylvania. The current disaster recovery protocol for applications running on ISD's mainframe computers is as follows:

- On a daily basis, the data generated by a variety of computer applications is recorded (i.e., backed up) on tapes.

- Each day, the tapes are inventoried and taken to an offsite location for storage.
- Should a disaster occur, the backup tapes, along with ISD staff would be transported to the hot-site in the Philadelphia area. This data, along with the related application software, would be loaded onto the mainframe computers and the applications would then be restarted.

The above process could take from several days to several weeks to complete depending on the extent of the applications impacted, the ability to locate and transport key staff and other logistics.

Currently, there are minimal off-site disaster recovery protocols for any of the applications that are run on servers. This represents about 65 percent of the applications in the Downey Data Center.

#### **The Proposed Environment:**

Approval of the lease for the Local Recovery Center will enable ISD to implement "data mirroring", a much better approach to disaster recovery. Under this approach, ISD would:

- Lease data center space at the Orange County Data Center facility (i.e., the Local Recovery Center)
- Place back-up servers and mainframes in the Local Recovery Center. For the most critical applications, these computers would already be configured to exactly replicate (i.e., mirror) the applications that are running in the Downey Data Center. Rather than using tape back-ups, data would instead be stored simultaneously on the prime computers in Downey and the mirrored computers in the Local Recovery Center.
- Should a disaster occur, ISD staff would simply switch from running the application from the computers in Downey to the computers at the Local Recovery Center.

As opposed to the current environment, data mirroring would allow ISD to restore computer service in a much timelier manner. Recovery could be expected within minutes or a few hours depending on the complexity involved. In addition, ISD would have recovery capabilities for critical mainframe applications as well as the server-based applications (i.e., currently, there is a minimal disaster recovery capability for the applications that are run on servers).

Overall, the facility will provide space for the County disk replication and storage, IBM disaster recovery hot-site, and midrange computer disaster recovery hot and cold sites.

Additionally, the site will accommodate alternate network infrastructure components for the County's Enterprise Network, internet and external networks connections, Xerox laser print operations and other functions that may be identified in the future. Therefore, the Local Recovery Center will also provide an additional point of back-up to be used in the event we have a failure in the County's network operations.

Orange County technical staff will perform the routine maintenance and ISD staff will operate the site in the event of a major outage in Downey. Therefore, workspace for up to ten staff is required although staff will not be permanently housed at the facility.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The Countywide Strategic Plan directs that we ensure that service delivery systems are efficient, effective and goal-oriented. This proposed lease supports this strategy through compliance with the Strategic Asset Management Principles (Goal 3, Organizational Effectiveness). The County is leasing space for ISD/Local Recovery Center for emergency back-up as further outlined in Attachment A.

### **FISCAL IMPACT/FINANCING**

The initial annual lease cost will be \$254,460 or \$142.08 per square foot. The base rent will remain fixed throughout the three-year lease term. The basic terms of the lease are outlined below.

1400 South Grand Avenue, Santa Ana	
Area (sq. ft.)	1,791
Term	Three years
Annual Rent	\$254,460 (\$11.84 per square foot per month)
Tenant Improvements	\$95,000 lump-sum payment upon acceptance by County
Parking Included in rent	Four non-exclusive
Cancellation	At any time upon 90 day prior written notice
Option to Renew	Two one-year terms
Option to Expand	First right of refusal
Rental Adjustment	None

Sufficient funding for the proposed lease is included in the 2004-2005 Rent Expense Budget and will be charged back to ISD. Sufficient funding has been proposed in the 2005-06 Rent Expense Budget to cover the lease costs. All costs associated with the proposed lease are offset 100 percent by customer utilization.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The lease provides the County a Local Recovery Center in the event of a major outage in Downey. The proposed lease provides the following:

- A full service lease whereby the Lessor will be responsible for all operating costs associated with the lessee's use.
- A lease term of three years which will commence upon County acceptance of the TI, and two one-year renewal options.
- The County will reimburse the Lessor in a lump-sum payment not to exceed \$95,000, the full cost of the TI upon completion and acceptance by the County.
- A monthly base rent in the amount of \$21,205 which will remain fixed throughout the lease term. The base rent includes four non-exclusive surface parking spaces.
- A mutual cancellation right at any time during the lease term upon 90 days prior written notice. Should the Lessor terminate the lease, Lessee may make a claim for reimbursement of the pro rata TI cost.
- A right of first refusal on available space to expand the premises not to exceed 600 square feet, upon 90 days prior written notice. The CAO will process a lease amendment to lease a maximum of 600 square feet of space upon receipt of a space request from ISD and review and approval by the CAO.

CAO Real Estate staff surveyed the County of Los Angeles using ISD's space requirements. There are no County-owned or leased facilities available to accommodate this program. Staff was unable to identify any sites in the surveyed area that could accommodate this requirement more economically as shown the list of comparable facilities identified as Attachment B.

The \$11.84 per square foot per month is low for data center space, however, it is much higher than the rate for Class A office space. The primary reasons are: the basic construction costs are much higher to create a resilient facility including redundant power and air-conditioning systems, raised flooring, special fire suppression systems, security systems and alarm systems. On an on-going basis the costs for power and air-conditioning (included in the lease) far exceed the costs to operate a normal office environment.

Based upon a market survey of similar properties in Los Angeles, Orange and San Diego Counties, as shown on Attachment B, staff has determined that the base rental range, including parking for similar properties, is between \$142 and \$228 per square foot per year modified-gross. Thus, the base annual rent of the proposed lease represents the lower range of the market for this type of specialized use.

The Orange County Data Center was designed and inspected based on the 1988 Uniform Building Code. The County of Orange voluntarily increased the design, the provisions (seismic load, back-up generators, additional air handlers, etc), to ensure the facility would function as an essential facility.

The proposed premise is part of a high security data center facility and is not an appropriate site to operate a child care center.

#### **NEGATIVE DECLARATION/ENVIRONMENTAL IMPACT REPORT**

The CAO has made an initial study of environmental factors and has concluded that this project is exempt from CEQA pursuant to Class 1, Section r, of the Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, and Section 15061 (b) (3) of the State CEQA Guidelines.

#### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

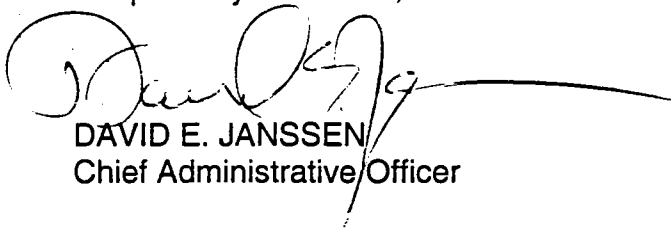
It is the finding of the CAO and ISD that the proposed lease is in the best interest of the County. ISD is currently requesting 1,791 square feet of space with an option to expand up to another 600 square feet over the term of the lease agreement.

The Honorable Board of Supervisors  
June 21, 2005  
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**CONCLUSION**

It is requested that the Executive Officer, Board of Supervisors return two original leases and two certified copies of the Minute Order and adopted stamped Board letter to the CAO, Real Estate Division, 222 South Hill Street, 4th Floor, Los Angeles, CA 90012.

Respectfully submitted,



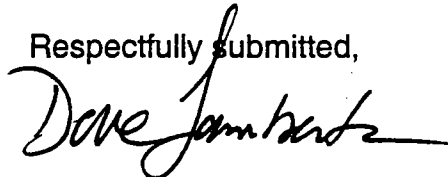
DAVID E. JANSSEN  
Chief Administrative Officer

DEJ:CWW  
CEM:MM:hd

Attachments (3)

c: County Counsel  
Auditor-Controller  
Chief Information Office

Respectfully submitted,



DAVID LAMBERTSON  
Director  
Internal Services Department

## Attachment A

INTERNAL SERVICES DEPARTMENT  
1400 SOUTH GRAND AVENUE, SANTA ANA

Asset Management Principles Compliance Form<sup>1</sup>

1. <u>Occupancy</u>		YES	NO	NA
A	Does lease consolidate administrative functions? <sup>2</sup>			X
B	Does lease co-locate with other functions to better serve clients? <sup>2</sup>			X
C	Does this lease centralize business support functions? <sup>2</sup>			X
D	Does lease meet the guideline of 200 sf. of space per person? <sup>2</sup>			X
E	Does lease meet 80% parking rule?			X
<b>2. <u>Capital</u></b>				
A	Should program be in leased space to maximize State/Federal funding?		X	
B	If not, is this a long term County program?	X		
C	Is it a net County cost (NCC) program? List % NCC <b>0%*</b> <b>Cost offset by income from depts.</b>	X		
D	If yes to 2 B or C; Is this a capital lease or operating lease with an option?			X
E	If no, are there any suitable County owned facilities available?		X	
F	If yes, why is lease being recommended over occupancy in County owned space?			X
G	Is Building Description Report attached as "Attachment B" <sup>2</sup> <b>A Data Center Chart showing comparable sites and cost is provided as "Attachment B".</b>		X	
H	Was build to suit or capital project considered? <sup>2</sup> <b>The proposed building is a special use facility and is available at a competitive market rate.</b>		X	
<b>3. <u>Portfolio Management</u></b>				
A	Did department utilize CAO Space Request Evaluation(SRE)? <sup>2</sup>	X		
B	Was the space need justified?	X		
C	If a renewal lease, was co-location with other County departments considered?			X
D	Why was this program not co-located? <b>Use is Local Recovery Center</b>			X
	1. The program clientele requires a "stand alone" facility.			
	2. <b>X</b> No suitable County occupied properties in project area.			
	3. <b>X</b> No County owned facilities available for the project			
	4. Could not get City clearance or approval			
	5. The Program is being co-located			
E	Is lease a full service lease? <sup>2</sup>	X		
F	Has growth projection been considered in space request?	X		
G	Has the Dept. of Public Works completed seismic review/approval? <b>County of Orange has seismically upgraded facility.</b>			X
<sup>1</sup> As approved by the Board of Supervisors 11/17/98 <span style="float: right;">Please <b>BOLD</b> any written responses</span>				
<sup>2</sup> If not, why not?				

\* The costs of this program are revenue offset, therefore, the NCC portion is dependent on the funding source.



## Comparable Data Center Facilities and Proposed Site

	Rockefeller Group Santa Ana	Savvis Burbank	AT&T San Diego	Kilroy El Segundo	Orange County Data Center
Area (sq. ft.)	1,700	1,700	1,700	1,700	1,791
Term	Three years	Three years	Three years	Three years	Three years
Annual Rent	\$346,800+additional electrical*	\$387,600+additional electrical*	\$702,720+additional electrical*	\$248,700+electrical (no remote services)	\$254,460** Full Service Gross
Parking Included in rent	Four non-exclusive	Four non-exclusive	Four non-exclusive	Four non-exclusive	Four non-exclusive
Cancellation	Any time with penalty of 50% of remaining term rent	Any time with penalty of 50% of remaining term rent	Any time with penalty of 50% of remaining term rent	At any time upon 90 day prior written notice	At any time upon 90 day prior written notice and pro-rated reimbursement TI's
Option to Renew	Two years	Two years	Two years	Two years	Two one-year option
Utilities	Additional	Additional	Additional	Additional	Included in rental rate
Security	Included	Included	Included	Additional	Included in rental rate
Option to Expand	First right of refusal	First right of refusal	First right of refusal	First right of refusal	First right of refusal
Rental Adjustment	After 2 <sup>nd</sup> year	None	None	None	Upon execution of renewal option
Recommendation	Higher cost and cancellation penalty	Higher cost and cancellation penalty	Full hosting facility, higher cost, long distance and cancellation penalty	Less than 20 miles distance from Downey	Facility meets Local Recovery Center requirements

\*Base rent includes standard electricity use and security.

\*\*Base rent includes 24x7x365 security, facility engineers and remote services.

Enterprise Data Center  
1400 S. Grand Avenue  
L.A. County Lease  
CEO/AML/CEO-05-017

## LEASE

This LEASE ("Lease") is made \_\_\_\_\_, 2005 by and between the County of Orange, hereinafter referred to as "COUNTY," and the County of Los Angeles, hereinafter referred to as "LESSEE," without regard to number and gender. The term "COUNTY" shall mean the Board of Supervisors of the political body that executed this agreement or its authorized representative.

### 1. DEFINITIONS (AM1.2 S)

The following words in this Lease have the significance attached to them in this clause unless otherwise apparent from context:

"Board of Supervisors" means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.

"County Executive Officer" means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to LESSEE, such other person or entity as shall be designated by the Board of Supervisors.

"Auditor-Controller" means the Auditor-Controller, County of Orange, or designee, or upon written notice to LESSEE, such other person or entity as shall be designated by the Board of Supervisors.

"Manager of CEO/Real Estate" means the Manager, County Executive Office, Real Estate, County of Orange, or designee, or upon written notice to LESSEE, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

"CEO/Real Estate" means the County Executive Office, Real Estate of the County of Orange, or designee, or upon written notice to LESSEE, such other entity as shall be designated by the County Executive Officer or the Board of Supervisors.

"Internal Audit Department" means the Internal Audit Department, County of Orange, or designee, or upon written notice to LESSEE, such other person or entity as shall be designated by the Board of Supervisors.

### 2. PREMISES (AM1.3 S)

COUNTY leases to LESSEE that certain property known as Room 122 and Room 123 in the County of Orange Enterprise Data Center, 1400 South Grand Avenue, City of Santa Ana, County of Orange, containing approximately One Thousand Seven Hundred Ninety One (1,791) square feet hereinafter referred to as "Premises," described in "Exhibit A" and shown on "Exhibit B" (Plot Plan) and "Exhibit C" (Space Plan), which exhibits are attached hereto and by reference made a part hereof.

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1 3. PARKING (N)

3 COUNTY, throughout the term of this Lease, shall provide four (4) parking spaces for LESSEE's free and in-  
5 common, non-exclusive use, twenty-four (24) hours per day, in the parking lot located adjacent to the Premises.

7 4. TERMINATION OF PRIOR AGREEMENTS (AM1.4 N)

9 It is mutually agreed that this Lease shall terminate and supersede any prior leases or written or oral agreements  
between the parties hereto covering all or any portion of the Premises.

11 5. LIMITATION OF THE LEASEHOLD (AM1.5 S)

13 This Lease and the rights and privileges granted LESSEE in and to the Premises are subject to all covenants,  
15 conditions, restrictions, and exceptions of record or apparent. Nothing contained in this Lease or in any document  
17 related hereto shall be construed to imply the conveyance to LESSEE of rights in the Premises which exceed  
19 those owned by COUNTY, or any representation or warranty, either express or implied, relating to the nature or  
condition of the Premises or COUNTY's interest therein. LESSEE acknowledges that LESSEE has conducted a  
(CONSTRUCTION/TENANT IMPROVEMENTS) of this Lease.

21 6. USE (N)

- 23 A. LESSEE's use of the Premises shall be limited to installation, operation, and maintenance of data and  
25 network services equipment for the County of Los Angeles. LESSEE agrees not to use the Premises for  
27 any other purpose nor to engage in or permit any other activity within or from the Premises. LESSEE  
29 agrees not to conduct or permit to be conducted any public or private nuisance in, on, or from the  
Premises, or to commit or permit to be committed any waste within the Premises.
- 31 B. LESSEE will have access to and non-exclusive use of common areas such as walkways, parking area,  
lunchrooms, restrooms, break rooms, loading facilities, and lobby. Conference rooms will be available  
subject to availability and existing scheduling procedures.
- 33 C. The Enterprise Data Center is a secure facility and access to the Premises is possible via security badge  
35 only. The COUNTY will issue to LESSEE all necessary security badges and retains the right to limit the  
37 number of security badges issued and approve/disapprove issuance of badges to individuals. LESSEE will  
be required to pay Twenty-Five Dollars (\$25.00) to COUNTY for any replacement security badge.
- 39 D. Temporary Closure: LESSEE acknowledges that the COUNTY may need to temporarily shut down the  
41 Enterprise Data Center and its systems periodically for routine maintenance or unexpected repairs.  
COUNTY will provide LESSEE with reasonable written notification should a shut down become  
43 necessary unless an emergency circumstance prevents such notification.
- 45 E. The operation of the County of Los Angeles Disaster Recovery Program will require an unspecified  
47 number of telephone, data, and internet access lines. LESSEE shall be responsible for all costs associated  
with the installation, maintenance, and use of all telephone, data, and internet access lines used in the

operation of the County of Los Angeles Disaster Recovery Program. Monthly rates for these services will be approved by the Orange County Board of Supervisors and charged to LESSEE on a monthly basis.

NO TOBACCO PRODUCTS, BEER, WINE, OR OTHER INTOXICATING BEVERAGES SHALL BE SOLD OR CONSUMED FROM OR ON THE PREMISES.

7. TERM (AM2.3 N)

The term of this Lease shall be three (3) years, commencing the first day of the first full calendar month following the date of execution of this Lease by COUNTY, or commencing the first day of the first full calendar month following completion by COUNTY of the work set out in the clause entitled (CONSTRUCTION), of this Lease, whichever date is later. The parties agree that the Commencement Date will be confirmed in writing by either party upon demand by the other.

8. OPTION TO EXTEND TERM (N)

LESSEE shall have the option to extend the term of this Lease for two additional one (1) year periods, on the same terms and conditions, at the monthly rent of Twenty Six Thousand Five Hundred Seven Dollars (\$26,507.00). Notification of said exercise of option shall be made in writing from LESSEE to COUNTY at least sixty (60) days prior to the Lease termination date.

9. OPTION TO TERMINATE LEASE (AM3.1N)

COUNTY or LESSEE shall have the option to terminate this Lease at anytime during the term by giving the other at least ninety (90) days prior written notice.

Should COUNTY exercise said option, LESSEE may, within thirty (30) days after the Lease termination date, make a claim for reimbursement of the unamortized cost of LESSEE-required improvements. The amount of said reimbursement shall be determined as follows:

Reimbursement Amount =  $\frac{1}{36}$  of the final tenant improvement/build-out cost x [Thirty Six (36) Months less the number of months of lease term elapsed]

If no claim is received by COUNTY within said thirty (30)-day period, LESSEE's right to reimbursement shall be deemed waived. COUNTY shall have sixty (60) days after receipt of the claim by LESSEE to pay said claim.

Should COUNTY incur additional costs for improvements, upgrades, modifications, equipment purchases, and other items as requested and required by the LESSEE after the initial build-out and occupancy, the LESSEE shall reimburse the COUNTY for those costs not yet recovered by COUNTY in rent payments.

LESSEE agrees that at termination of the lease, LESSEE will remove all LESSEE-owned equipment, furniture, and other items and the Premises shall be left in as good condition as when received, reasonable wear and tear excepted.

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1 10. LESSEE'S RIGHT TO LEASE ADDITIONAL SPACE (2.5 S)

3 Throughout the original lease term and any renewal or extension thereof, should additional space become  
5 available within COUNTY's building or property, either as a result of the termination of occupancy of another  
7 building tenant, or construction by COUNTY of additional space onto COUNTY's building, LESSEE shall have  
9 the right of first refusal to lease such additional space. LESSEE's right of first refusal shall extend for a period of  
11 sixty (60) days following LESSEE's receipt of COUNTY's written notice of the availability of said space.  
13 LESSEE's occupancy of said space shall be subject to the terms and conditions of this Lease and rental for said  
15 space shall be based upon the rental rate which LESSEE is paying for the Premises at the time LESSEE's  
17 occupancy of the additional space commences.

11 11. RENT (AMC 1.1 S)

13 LESSEE agrees to pay the following monthly rent in accordance with the schedule below, which shall be payable  
15 monthly in advance on the first day of each month so long as tenancy continues. Said rent shall commence on the  
17 date LESSEE occupies the Premises or the first day of the first month of the lease term, whichever occurs earlier.  
19 In the event the obligation to pay rent commences on some date other than the first of the month or terminates on  
some date other than the last day of the month, the rent shall be prorated to reflect the actual period of tenancy  
and shall be paid on the first day of the following month.

21	<u>Months</u>	<u>Monthly Rent</u>
23	1-12	\$21,205.00
25	13-24	\$21,205.00
27	25-36	\$21,205.00

29 Should LESSEE exercise its option to extend the term of this Lease for one or two additional one (1) year periods  
LESSEE agrees to pay the following monthly rent in accordance with the schedule below, which shall be payable  
31 monthly in advance on the first day of each month so long as tenancy continues.

33	<u>Months</u>	<u>Monthly Rent</u>
35	37-48	\$26,507.00
37	49-60	\$26,507.00

39 Payment of Rent. Rent payments shall be made in accordance with the provisions of the Clause (RENT  
41 PAYMENT PROCEDURE) of this Lease.

43 12. RENT PAYMENT PROCEDURE (AMC 6.4 S)

45 **Rent payments shall be delivered to the County of Orange, Office of the Auditor-Controller, P.O. Box  
567 (630 N. Broadway), Santa Ana, California 92702. COUNTY may change the designated place of  
payment at any time upon sixty (60) days written notice to LESSEE. Rent payments shall be made by**

1 check payable to the County of Orange. LESSEE assumes all risk of loss if payments are made by  
3 mail.

5 All sums due under this Lease shall be paid in lawful money of the United States of America, without offset or  
7 deduction or prior notice or demand. No payment by LESSEE or receipt by COUNTY of a lesser amount than  
9 the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or  
statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction,  
and COUNTY shall accept such check or payment without prejudice to COUNTY's right to recover the balance  
of the amount due or pursue any other remedy in this Lease.

11 13. CONSTRUCTION AND/OR ALTERATION BY LESSEE (AM5.1 S)

13 COUNTY's Consent. No structures, improvements, or facilities shall be constructed, erected, altered, or made  
15 and no business fixtures or equipment shall be installed within the Premises without prior written consent of the  
17 Manager of CEO/Real Estate, which consent shall not be unreasonably withheld or delayed. Any conditions  
relating to the manner, method, design, and construction of said structures, improvements, or facilities fixed by  
the Manager of CEO/Real Estate as a condition to granting such consent, shall be conditions hereof as though  
originally stated herein.

19 14. CONSTRUCTION / TENANT IMPROVEMENTS (4.1 S)

21 COUNTY hereby agrees to complete, at LESSEE's expense, within ninety (90) calendar days after the date first  
23 written above, alterations, repairs, and other work (the "Work") in accordance with the plans and the  
specifications attached hereto and made a part hereof as "Exhibit C."

25 Should COUNTY fail to complete the Work within ninety (90) calendar days after execution of the Lease by  
27 COUNTY, for any reason other than a delay caused by LESSEE, LESSEE shall reduce subsequent rent due  
COUNTY by Seven Hundred Seven Dollars (\$707.00) for each day the completion date of the Work exceeds the  
29 above mentioned ninety (90)-day period. Said amount shall be considered as liquidated damages to compensate  
LESSEE for costs incurred as a result of such COUNTY-caused delay. If the Work is not completed within one  
31 hundred twenty (120) calendar days after the date first written above, then in addition to the amount stated above,  
LESSEE may, at LESSEE's sole option, upon giving written notice to COUNTY prior to the completion of the  
33 Work, terminate the Lease. In the event of such termination, this Lease shall terminate on the date specified in  
such notice and neither party shall have any further right or obligation to the other with respect to this Lease or  
35 the Premises.

37 All planning and architectural/design required to accomplish the Work shall be the COUNTY's responsibility.  
All plans and working drawings for the Work shall have the approval of LESSEE.

39 LESSEE shall pay COUNTY the actual cost of said Work, not to exceed Ninety Five Thousand Dollars (\$95,000)  
41 within forty-five (45) calendar days after completion of the Work. COUNTY will provide LESSEE with an  
itemized accounting of the costs to complete the Work within fifteen (15) calendar days following completion of  
43 the Work.

45 Subsequent to the completion of the Work, and prior to occupancy by LESSEE, COUNTY shall obtain  
LESSEE's approval and acceptance of the Work. Said approval shall be manifested by letter from LESSEE's

Chief Administrative Office, Real Estate Division, and may be subject to completion of items on a "punch list". Said punch list will be generated by LESSEE. LESSEE shall have the option not to accept the Premises prior to completion of all items on any such punch list.

In the event LESSEE's approval and acceptance of the Premises is given prior to the completion of a punch list, COUNTY shall have twenty-one (21) working days following receipt of said punch list to complete all remaining work contained therein.

#### 15. ADDITIONAL IMPROVEMENTS TO PREMISES REQUIRED BY LESSEE (N)

Should LESSEE require additional services, equipment, or space modifications ("Improvements") at any time after lease commencement, LESSEE shall submit a written request to COUNTY and upon approval and completion of Improvements by COUNTY, LESSEE shall reimburse COUNTY for any and all costs associated with the Improvements and any additional work in rent payments.

#### 16. UTILITIES (AM6.1 N)

COUNTY shall be responsible for and pay, prior to the delinquency date, all charges for water, gas and electrical services supplied to the Premises. Telephone service serving the Premises will be contracted under a separate agreement from this Lease between the LESSEE and Affiliated Computer Services ("ACS").

#### 17. MAINTENANCE OBLIGATIONS OF LESSEE (AM6.3 N)

LESSEE, at LESSEE's sole cost, agrees to maintain the Premises and all furnishings and equipment, if applicable, and improvements constructed thereon in good order and repair, and to keep said Premises in a neat, clean, orderly, safe, and sanitary condition. This includes, but is not limited to, the prevention of accumulation of any refuse or waste materials that might constitute a fire hazard or a public or private nuisance. Failure of LESSEE to properly maintain and repair the Premises shall constitute a breach of the terms of this Lease.

#### 18. MAINTENANCE OBLIGATIONS OF COUNTY (N)

COUNTY shall repair and maintain the interior/exterior walls; floor; ceilings; plumbing systems; heating and air-conditioning systems; fluorescent ceiling-mounted electric light fixtures; bulbs for fluorescent lights and related switches; windows; COUNTY-owned doors and locks; gas lines; and electric lines within the Premises. COUNTY shall provide janitorial services and supplies to the extent that such services are typically provided to COUNTY offices surrounding the Premises.

#### 19. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS (AM6.5 S)

In the event of damage to or destruction of COUNTY-constructed or installed improvements, equipment or fixtures located within the Premises or in the event COUNTY-installed improvements, equipment or fixtures located within the Premises are declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, COUNTY shall, within thirty (30) days, commence and diligently pursue to complete the repair, replacement, or reconstruction of improvements to the same size and floor area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the Premises for the purposes required by the Lease. Repair, replacement, or reconstruction of

improvements within the Premises shall be accomplished in a manner and according to plans approved by the Manager of CEO/Real Estate. With respect to damage or destruction to be repaired by COUNTY or which COUNTY elects to repair, LESSEE waives and release its rights under California Civil Code Sections 1932 (2) and 1933 (4).

## 20. INSURANCE (AM6.6 S)

LESSEE agrees to purchase all required insurance at LESSEE's expense and to deposit with the COUNTY certificates of insurance, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this Lease have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the COUNTY during the entire term of this Lease.

Manager of CEO/Real Estate will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance.

If LESSEE fails to provide COUNTY's Manager of CEO/Estate with a valid certificate of insurance and endorsements or binder at any time during the term of this Lease, COUNTY and LESSEE agree that this shall constitute a material breach of the Lease.

All contractors performing work on behalf of LESSEE pursuant to this Lease shall obtain insurance subject to the same terms and conditions as set forth herein for LESSEE. LESSEE shall not allow contractors or subcontractors to work if contractors have less than the level of coverage required by the COUNTY from the LESSEE under this Lease. It is the obligation of the LESSEE to provide written notice of the insurance requirements to every contractor and to receive proof of insurance prior to allowing any contractor to begin work within the Premises. Such proof of insurance must be maintained by LESSEE through the entirety of this Lease and be available for inspection by a COUNTY representative at any reasonable time.

All insurance policies required by this Lease shall declare any deductible or self-insured retention (SIR) in an amount in excess of \$25,000 (\$5,000 for automobile liability). LESSEE shall be responsible for reimbursement of any deductible to the insurer. Any self-insured retentions (SIRs) or deductibles shall be clearly stated on the certificate of insurance.

If the LESSEE fails to maintain insurance acceptable to the COUNTY for the full term of this Lease, the COUNTY may terminate this Lease.

### **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier).

Minimum insurance company ratings as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com** shall be A- (Secure Best's Rating) and VIII (Financial Size Category).

If the carrier is a non-admitted carrier in the state of California, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings.



The policy or policies of insurance maintained by the LESSEE shall provide the minimum limits and coverage as set forth below:

<u>Coverages</u>	<u>Minimum Limits</u>
Commercial General Liability with broad form property damage, contractual liability and products liability	\$1,000,000 combined single limit per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 combined single limit per occurrence
Workers' Compensation	Statutory in accordance with Section 3700 of the California Labor Code
Employers' Liability Insurance	\$1,000,000 per occurrence
Fire and Extended Coverage including contents and business income	LESSEE shall insure all LESSEE equipment, furnishings, and improvements, including water damage and debris cleanup, to at least 90% of their replacement cost, using a standard form fire insurance policy containing the "extended coverage" endorsement

The County of Orange shall be added as an additional insured on all insurance policies required by this Lease with respect to work done by the LESSEE under the terms of this Lease (except Workers' Compensation/Employers' Liability, Fire and Extended Coverage, An additional insured endorsement evidencing that the County of Orange is an additional insured shall accompany the certificate of insurance.

All insurance policies required by this Lease shall be primary insurance, and any insurance maintained by the County of Orange shall be excess and non-contributing with insurance provided by these policies. An endorsement evidencing that the LESSEE's insurance is primary and non-contributing shall specifically accompany the certificate of insurance for the Commercial General Liability.

All insurance policies required by this Lease shall give the County of Orange thirty (30) days notice in the event of cancellation. This shall be evidenced by an endorsement separate from the certificate of insurance. In addition, the cancellation clause must include language as follows, which edits the pre-printed ACORD certificate:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENT OR REPRESENTATIVE.~~

1 The Commercial General Liability policy shall contain a severability of interests clause.

3 Insurance certificates should be forwarded to the COUNTY address provided in the Clause (NOTICES) below or  
5 to an address provided by Manager of CEO/Real Estate.

7 COUNTY expressly retains the right to require LESSEE to increase or decrease insurance of any of the above  
9 insurance types throughout the term of this Lease. Any increase or decrease in insurance will be as deemed by  
County of Orange Risk Manager as appropriate to adequately protect COUNTY.

11 COUNTY shall notify LESSEE in writing of changes in the insurance requirements. If LESSEE does not  
13 deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such  
changes within thirty (30) days of receipt of such notice, this Lease may be in breach.

15 The procuring of such required policy or policies of insurance shall not be construed to limit LESSEE's  
liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease.

17 LESSEE at it sole option may self-insure all or any portion of the above required insurance and will issue a  
19 letter to the COUNTY verifying that the type of insurance and coverage limits provided under the LESSEE's  
self-insurance program is in compliance with the requirements of this License agreement.

21 The COUNTY and LESSEE agree to waive their rights of recovery against each other for any insured losses.

23 21. ASSIGNING, SUBLETTING AND ENCUMBERING (PME7.3 N)

25 Any mortgage, pledge, hypothecation, encumbrance, transfer, sublease or assignment (hereinafter in this clause  
27 referred to collectively as ("Encumbrance")) of LESSEE's interest in the Premises, or any part or portion thereof is  
prohibited.

29 22. HAZARDOUS MATERIALS (AM7.2 S)

31 A. Definition of Hazardous Materials. For purposes of this Lease, the term "Hazardous Material" or  
33 "Hazardous Materials" shall mean any hazardous or toxic substance, material, product, byproduct, or  
waste which is or shall become regulated by any governmental entity, including, without limitation, the  
COUNTY acting in its governmental capacity, the State of California or the United States government.

35 B. Use of Hazardous Materials. LESSEE or LESSEE's employees, agents, independent contractors or  
37 invitees (collectively "LESSEE Parties") shall not cause or permit any Hazardous Materials to be brought  
upon, stored, kept, used, generated, released into the environment or disposed of on, under, from or about  
39 the Premises (which for purposes of this clause shall include the subsurface soil and ground water).  
Notwithstanding the foregoing, LESSEE may keep on or about the Premises small quantities of  
41 Hazardous Materials that are used in the ordinary, customary, and lawful cleaning of and business  
operations on the Premises. Said permitted Hazardous Materials shall be stored in a safe location and  
43 shall be disposed of in a manner provided by law.

45 C. LESSEE Obligations. If the presence of any Hazardous Materials on, under or about the Premises caused  
47 or permitted by LESSEE or LESSEE Parties results in (i) injury to any person, (ii) injury to or  
contamination of the Premises (or a portion thereof), or (iii) injury to or contamination of any real or

1 personal property wherever situated, LESSEE, at its sole cost and expense, shall promptly take all actions  
3 necessary or appropriate to return the Premises to the condition existing prior to the introduction of such  
5 Hazardous Materials to the Premises and to remedy or repair any such injury or contamination. Without  
7 limiting any other rights or remedies of COUNTY under this Lease, LESSEE shall pay the cost of any  
9 cleanup or remedial work performed on, under, or about the Premises as required by this Lease or by  
11 applicable laws in connection with the removal, disposal, neutralization or other treatment of such  
13 Hazardous Materials caused or permitted by LESSEE or LESSEE Parties. Notwithstanding the  
15 foregoing, LESSEE shall not take any remedial action in response to the presence, discharge or release, of  
17 any Hazardous Materials on, under or about the Premises caused or permitted by LESSEE or LESSEE  
19 Parties, or enter into any settlement agreement, consent decree or other compromise with any  
21 governmental or quasi-governmental entity without first obtaining the prior written consent of COUNTY.  
23 All work performed or caused to be performed by LESSEE as provided for above shall be done in good  
25 and workmanlike manner and in compliance with plans, specifications, permits and other requirements for  
27 such work approved by COUNTY.

29 D. Indemnification for Hazardous Materials. To the fullest extent permitted by law, LESSEE hereby agrees  
31 to indemnify, hold harmless, protect and defend (with attorneys acceptable to COUNTY) COUNTY, its  
33 elected officials, officers, employees, agents, independent contractors, and the Premises from and against  
35 any and all liabilities, losses, damages (including, but not limited, damages for the loss or restriction on  
37 use of rentable or usable space or any amenity of the Premises or damages arising from any adverse  
39 impact on marketing and diminution in the value of the Premises), judgments, fines, demands, claims,  
41 recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees,  
43 disbursements and court costs and all other professional or consultant's expenses), whether foreseeable or  
45 unforeseeable, arising directly or indirectly out of the presence, use, generation, storage, treatment, on or  
47 off-site disposal or transportation of Hazardous Materials on, into, from, under or about the Premises by  
49 LESSEE or LESSEE Parties. The foregoing indemnity shall also specifically include the cost of any  
required or necessary repair, restoration, clean-up or detoxification of the Premises and the preparation of  
any closure or other required plans.

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23. NOTICES (AM7.3 S)

All notices pursuant to this Lease shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be sent through the United States mail in the State of California, duly registered or certified, return receipt requested, with postage prepaid.

If any notice is sent by registered or certified mail, as aforesaid, the same shall be deemed to have been served or delivered twenty-four (24) hours after mailing thereof as above provided. Notwithstanding the above, COUNTY may also provide notices to LESSEE by personal delivery or by regular mail and any such notice so given shall be deemed to have been given upon receipt.

TO: COUNTY

County of Orange  
CEO/Real Estate  
1300 South Grand Ave., Bldg. A  
Santa Ana, CA 92705

Attn.: Manager

TO: LESSEE

County of Los Angeles  
Chief Administrative Office  
Real Estate Division  
222 South Hill Street, 3<sup>rd</sup> floor  
Los Angeles, CA 90012

Attn: Director of Real Estate

24. ATTACHMENTS TO LEASE (AM7.4 S)

This Lease includes the following, which are attached hereto and made a part hereof:

I. GENERAL CONDITIONS

II. EXHIBITS

Exhibit A — Premises Description  
Exhibit B — Plot Plan  
Exhibit C — Space Plan

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1 IN WITNESS WHEREOF, the parties have executed this Lease the day and year first above written.

3 APPROVED AS TO FORM:

Benjamin De Mayo  
County Counsel  
Of Orange County, California

LESSEE

County of Los Angeles

9 By \_\_\_\_\_  
Deputy

By \_\_\_\_\_  
Chair, Board of Supervisors

13 Date \_\_\_\_\_

APPROVED AS TO FORM:

Raymond G. Fortner  
County Counsel  
Of Los Angeles County, California

17 RECOMMENDED FOR APPROVAL:

19 CEO/Real Estate

  
Deputy

23 By \_\_\_\_\_

ATTEST:

Violet Varona-Lukens  
Executive Officer-Clerk  
of the Board of Supervisors

By \_\_\_\_\_  
Deputy

33 SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED TO  
35 THE CHAIRMAN OF THE BOARD

COUNTY

COUNTY OF ORANGE

39 \_\_\_\_\_  
41 DARLENE J. BLOOM  
Clerk of the Board of Supervisors  
Orange County, California

\_\_\_\_\_  
Chairman, Board of Supervisors

Enterprise Data Center  
1400 S. Grand Avenue  
L.A. County Lease

## GENERAL CONDITIONS (PMG1.1-26.1 S)

### 1. TIME (PMG1.1 S)

Time is of the essence of this Lease. Failure to comply with any time requirement of this Lease shall constitute a material breach of this Lease.

### 2. SIGNS (PMG2.1 N)

Excluding interior signage, LESSEE agrees not to construct, maintain, or allow any signs, banners, flags, etc., upon the Premises except as approved by Manager of CEO/Real Estate. Unapproved signs, banners, flags, etc. may be removed by Manager of CEO/Real Estate without prior notice to LESSEE.

### 3. LEASE ORGANIZATION (PMG5.1 S)

The various headings and numbers herein, the grouping of provisions of this Lease into separate clauses and paragraphs, and the organization hereof, are for the purpose of convenience only and shall not be considered otherwise.

### 4. AMENDMENTS (PMG6.1 S)

This Lease is the sole and only agreement between the parties regarding the subject matter hereof; other agreements, either oral or written, are void. Any changes to this Lease shall be in writing and shall be properly executed by both parties.

### 5. UNLAWFUL USE (PMG7.1 S)

LESSEE agrees no improvements shall be erected, placed upon, operated, nor maintained within the Premises, nor any business conducted or carried on therein or therefrom, in violation of the terms of this Lease, or of any regulation, order of law, statute, bylaw, or ordinance of a governmental agency having jurisdiction.

### 6. NONDISCRIMINATION (PMG8.1 S)

LESSEE agrees not to discriminate against any person or class of persons by reason of sex, age, race, color, creed, physical handicap, or national origin in employment practices and in the activities conducted pursuant to this Lease. LESSEE shall make its accommodations and services available to the public on fair and reasonable terms.

### 7. INSPECTION (PMG9.1 S)

COUNTY or its authorized representative shall have the right at all reasonable times to inspect the Premises to determine if the provisions of this Lease are being complied with.

1 8. WAIVER OF JURY TRIAL (9.15 S)

3 Each party acknowledges that it is aware of and has had the advice of Counsel of its choice with respect to its  
5 rights to trial by jury, and each party, for itself and its successors and assigns, does hereby expressly and  
7 knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by  
9 any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or  
11 affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this  
13 agreement and/or any claim of injury or damage.

15 9. GOVERNING LAW AND VENUE (9.16 S)

17 This agreement has been negotiated and executed in the State of California and shall be governed by and  
19 construed under the laws of the State of California. In the event of any legal action to enforce or interpret this  
21 agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County,  
23 California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding  
25 Code of Civil Procedure section 394.

27 10. HOLD HARMLESS (PMG10.1 N)

29 Each of the parties to this Agreement is a public entity as defined by Section 895 of the California Government  
31 code. Pursuant to the provisions of that Code, the parties agree that each will assume the full liability imposed by  
33 law upon it or any of its officers, agencies or employees for injury or damage caused by its negligent or wrongful  
35 acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be  
37 imposed in the absence of Section 895.2 of the Code. Each party further agrees for itself, its officers, agencies,  
39 employees, contractors, consultants, licensees, invitees, tenants and volunteers to indemnify and hold harmless  
41 the other from any and all liability, actual or alleged, including court costs and reasonable attorney's fees, which  
43 may arise from the acts or omissions of the indemnitor or its aforesaid affiliates of any tier.

45 In the event that third-party loss is attributable to the negligence or wrongful acts or omissions of both parties, the  
47 ultimate financial responsibility of each party shall be proportionate to its percentage of fault as determined by  
49 mutual agreement between the parties or by a court of competent jurisdiction. The provisions of California Civil  
code Section 2778 regarding interpretation of indemnity agreements are made a part hereof as if fully set forth  
herein.

Additionally, each party agrees to include the other within the protection of any indemnification clause contained  
in any contract for this Project.

11. SUCCESSORS IN INTEREST (PMG12.1 S)

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and  
bind the heirs, successors, executors, administrators, and assigns of all the parties hereto, all of whom shall be  
jointly and severally liable hereunder.

12. CIRCUMSTANCES WHICH EXCUSE PERFORMANCE (PMG13.1 S)

If COUNTY or LESSEE shall be delayed or prevented from the performance of any act required hereunder by  
reason of Acts of God, restrictive governmental laws or regulations, or other cause without fault and beyond the

control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. However, nothing in this Clause shall excuse LESSEE from the prompt payment of any rental or other charge required of LESSEE except as may be expressly provided elsewhere in this Lease.

### 13. PARTIAL INVALIDITY (PMG14.1 S)

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

### 14. WAIVER OF RIGHTS (PMG15.1 S)

The failure of COUNTY or LESSEE to insist upon strict performance of any of the terms, covenants, or conditions of this Lease shall not be deemed a waiver of any right or remedy that COUNTY or LESSEE may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants, and conditions of the Lease thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant, or condition of the Lease. Any waiver, in order to be effective, must be signed by the party whose right or remedy is being waived.

### 15. DEFAULT IN TERMS OF THE LEASE BY LESSEE (PMG16.1 N)

A. The occurrence of any one or more of the following events shall constitute a default hereunder by LESSEE:

- (1) The abandonment or vacation of the Premises by LESSEE;
- (2) The failure by LESSEE to make any payment of rent or any other sum payable hereunder by LESSEE, as and when due, where such failure shall continue for a period of twenty (20) days after written notice thereof from COUNTY to LESSEE;
- (3) The failure or inability by LESSEE to observe or perform any of the provisions of this Lease to be observed or performed by LESSEE, other than specified in (1) or (2) above, where such failure shall continue for a period of ten (10) days after written notice thereof from COUNTY to LESSEE; provided, however, that if the nature of such failure is such that it can be cured by LESSEE, but that more than ten (10) days are reasonably required for its cure (for any reason other than financial inability), then LESSEE shall not be deemed to be in default if LESSEE shall commence such cure within said ten (10) days, and thereafter diligently prosecutes such cure to completion; or

B. In the event of any default by LESSEE, then, in addition to any other remedies available to COUNTY at law or in equity, COUNTY may exercise the following remedies:

- (1) COUNTY may terminate this Lease and all rights of LESSEE hereunder by giving written notice of such termination to LESSEE. In the event that COUNTY shall so elect to terminate this Lease, then COUNTY may recover from LESSEE any amount which COUNTY may by law hereafter be permitted to recover from LESSEE; or
- (2) Continue this Lease in effect without terminating LESSEE's right to possession, even though LESSEE has breached this Lease and abandoned the Premises, and enforce all of COUNTY's rights and remedies



1 under this Lease, at law or in equity, including the right to recover the rent as it becomes due under this  
2 Lease; provided, however, that COUNTY may at any time thereafter elect to terminate this Lease for  
3 such previous breach by notifying LESSEE in writing that LESSEE's right to possession of the  
4 Premises has been terminated.

5 C. Nothing in this Section shall be deemed to affect LESSEE's indemnity of COUNTY's liability or liabilities  
6 based upon occurrences prior to the termination of this Lease for personal injuries or property damage  
7 under the indemnification clause or clauses contained in this Lease.

8 D. No delay or omission of COUNTY to exercise any right or remedy shall be construed as a waiver of such  
9 right or remedy or any default by LESSEE hereunder. The acceptance by COUNTY of rent or any other  
10 sums hereunder shall not be a waiver of any preceding breach or default by LESSEE of any provision  
11 thereof, other than the failure of LESSEE to pay the particular rent or sum accepted, regardless of  
12 COUNTY's knowledge of such preceding breach or default at the time of acceptance of such rent or sum,  
13 nor a waiver of COUNTY's right to exercise any remedy available to COUNTY by virtue of such breach or  
14 default. No act or thing done by COUNTY or COUNTY's agents during the term of this Lease shall be  
15 deemed an acceptance of a surrender of the Premises and no agreement to accept a surrender shall be valid  
16 unless in writing and signed by COUNTY.

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19 16. RESERVATIONS TO COUNTY (PMG18.1 N)

20 The Premises, improvements, fixtures, or equipment within the Premises are accepted "as is" and where is by  
21 LESSEE subject to any and all existing easements and Encumbrances. COUNTY reserves the right to install, lay,  
22 construct, maintain, repair, and operate such sanitary sewers, drains, storm water sewers, pipelines, manholes, and  
23 connections; water, oil, and gas pipelines; telephone and telegraph power lines; and the appliances and  
24 appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, and along the  
25 Premises or any part thereof, and to enter the Premises for any and all such purposes with notice to LESSEE.  
26 COUNTY also reserves the right to grant franchises, easements, rights of way, and permits in, over, upon,  
27 through, across, and along any and all portions of the Premises. No right reserved by COUNTY in this clause  
28 shall be so exercised as to interfere unreasonably with LESSEE's operations hereunder or to impair the security of  
29 any secured creditor of LESSEE.

30 COUNTY agrees that rights granted to third parties by reason of this clause shall contain provisions that the  
31 surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any  
32 construction. COUNTY further agrees that should the exercise of these rights temporarily interfere with the use  
33 of any or all of the Premises by LESSEE, the rental shall be reduced in proportion to the interference with  
34 LESSEE's use of the Premises.

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38 17. HOLDING OVER (PMG19.1 S)

39 In the event LESSEE shall continue in possession of the Premises after the term of this Lease, such possession  
40 shall not be considered a renewal of this Lease but a tenancy from month to month and shall be governed by the  
41 conditions and covenants contained in this Lease.

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18. CONDITION OF PREMISES UPON TERMINATION (PMG20.1 S)

Except as otherwise agreed to herein, upon termination of this Lease, LESSEE shall re-deliver possession of said Premises to COUNTY in substantially the same condition that existed immediately prior to LESSEE's entry thereon, reasonable wear and tear, flood, earthquakes, war, and any act of war, excepted. References to the "Termination of the Lease" in this Lease shall include termination by reason of the expiration of the Lease term.

19. DISPOSITION OF ABANDONED PERSONAL PROPERTY (PMG21.1 S)

If LESSEE abandons or quits the Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to and left on the Premises fifteen (15) days after such event shall, at COUNTY's option, be deemed to have been transferred to COUNTY. COUNTY shall have the right to remove and to dispose of such property without liability therefor to LESSEE or to any person claiming under LESSEE, and shall have no need to account therefor.

20. QUITCLAIM OF LESSEE'S INTEREST UPON TERMINATION (PMG22.1 S)

Upon termination of this Lease for any reason, including but not limited to termination because of default by LESSEE, LESSEE shall execute, acknowledge, and deliver to COUNTY, within thirty (30) days after receipt of written demand therefor, a good and sufficient deed whereby all right, title, and interest of LESSEE in the Premises is quitclaimed to COUNTY. Should LESSEE fail or refuse to deliver the required deed to COUNTY, COUNTY may prepare and record a notice reciting the failure of LESSEE to execute, acknowledge, and deliver such deed and said notice shall be conclusive evidence of the termination of this Lease and of all rights of LESSEE or those claiming under LESSEE in and to the Premises.

21. COUNTY'S RIGHT TO RE-ENTER (PMG23.1 S)

LESSEE agrees to yield and peaceably deliver possession of the Premises to COUNTY on the date of termination of this Lease, whatsoever the reason for such termination.

Upon giving written notice of termination to LESSEE, COUNTY shall have the right to re-enter and take possession of the Premises on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the Lease and re-entry of the Premises by COUNTY shall in no way alter or diminish any obligation of LESSEE under the lease terms and shall not constitute an acceptance or surrender.

LESSEE waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Premises for any lawful reason or in the event COUNTY re-enters and takes possession of the Premises in a lawful manner.

22. PUBLIC RECORDS (PMG25.1 S)

Any and all written information submitted to and/or obtained by COUNTY from LESSEE or any other person or entity having to do with or related to this Lease and/or the Premises, either pursuant to this Lease or otherwise, at the option of COUNTY, may be treated as a public record open to inspection by the public pursuant to the California Records Act (Government Code Section 6250, et seq.) as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public and LESSEE hereby waives, for itself, its

agents, employees, subtenants, and any person claiming by, through or under LESSEE, any right or claim that any such information is not a public record or that the same is a trade secret or confidential information and hereby agrees to indemnify and hold COUNTY harmless from any and all claims, demands, liabilities, and/or obligations arising out of or resulting from a claim by LESSEE or any third party that such information is a trade secret, or confidential, or not subject to inspection by the public, including without limitation reasonable attorneys' fees and costs.

### 23. RELATIONSHIP OF PARTIES (PMG26.1 S)

The relationship of the parties hereto is that of COUNTY and LESSEE, and it is expressly understood and agreed that COUNTY does not in any way or for any purpose become a partner of LESSEE in the conduct of LESSEE's business or otherwise, or a joint venturer with LESSEE, and the provisions of this Lease and the agreements relating to rent payable hereunder are included solely for the purpose of providing a method by which rental payments are to be measured and ascertained.

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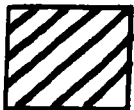
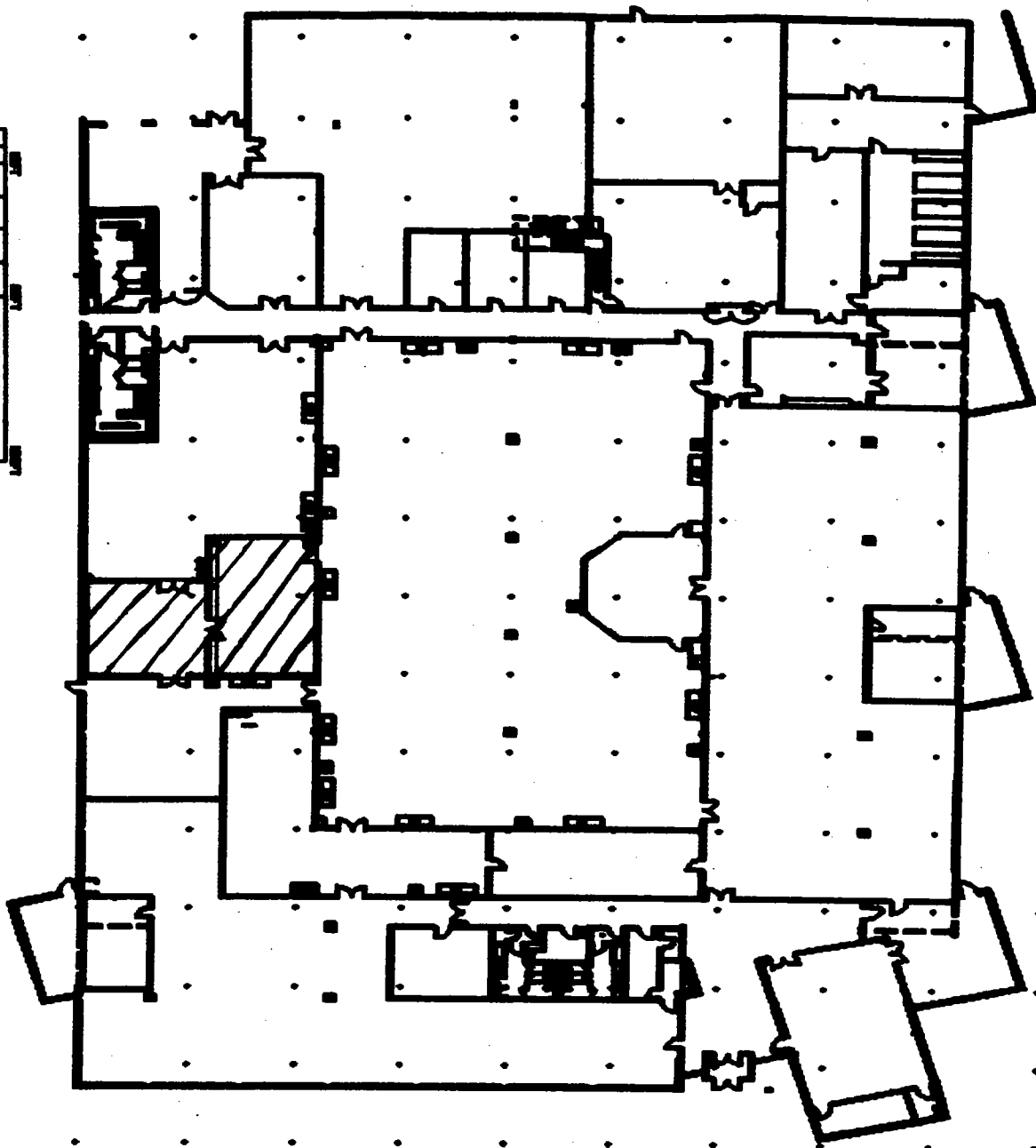
## LEASE DESCRIPTION

WRITTEN BY: Timothy Moe

DATE: December 5, 2004

All the Premises shown crosshatched on a plot plan marked Exhibit B, attached hereto and made a part hereof, being that certain office space located in the Enterprise Data Center, 1400 S. Grand Avenue, Room 122 and Room 123, in the City of Santa Ana, County of Orange, State of California, comprising approximately One Thousand Seven Hundred Ninety One (1,791) square feet of space, as measured by COUNTY and verified by LESSEE.

**NOT TO BE RECORDED**



Premises

### EXHIBIT B

Enterprise Data Center  
L.A. County Lease  
1400 S. Grand Ave., Santa Ana, CA

Prepared By: Tim Moe

Checked By:

Date: 1/25/05

COUNTY OF ORANGE  
CEO/REAL ESTATE

COUNTY OF ORANGE

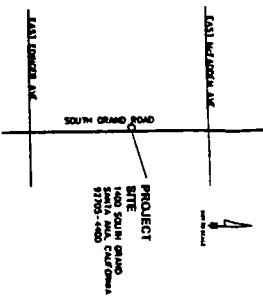
BRYAN G. SPEEGLE, DIRECTOR, RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT

**BOARD OF SUPERVISORS**

**ORANGE COUNTY**  
CALIFORNIA

**BILL CAMPBELL** CHAIRMAN  
**THOMAS W. WILSON, M.D.** - CHAIRMAN  
**LOU CORREA**  
**JAMES W. SILVA**  
**CHRIS NORBY**

VICINITY MAP



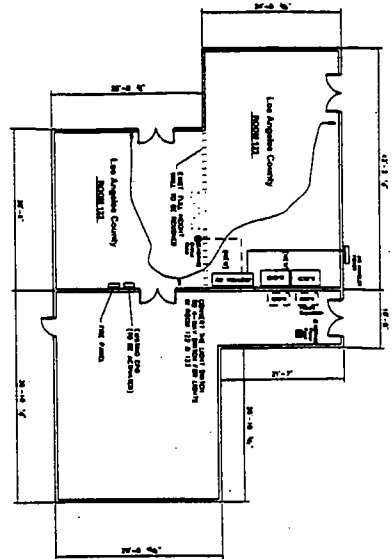
PROJECT DATA

OCCUPANCY - B  
TYPE - B - N (TYPICAL SPAN) (TYPICAL)  
EXISTING 1800' WIDE BY 6000' WIDE BUILDING  
NO EXISTING RECORDS WITHIN 100' OF PROJECT SITE  
NO EXISTING RECORDS WITHIN 100' OF PROJECT SITE

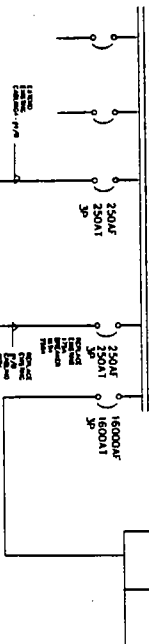
- ARCHITECTURAL NOTES:**
1. ALL BUILDING MATERIALS SHALL BE FINISHED TO MATCH EXISTING UNLESS NOTED OTHERWISE.
  2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH C.B.C. 2001 EDITION.
- MECHANICAL NOTES:**
1. ALL MECHANICAL EQUIPMENT SHALL BE SUPPLIED BY THE OWNER AND INSTALLED IN ACCORDANCE WITH THE DRAWING.
- PLUMBING NOTES:**
1. CONNECT NEW COLD WATER LINES TO THE EXISTING COLD WATER CONNECTION AS SHOWN IN THE DRAWING.
- ELECTRICAL NOTES:**
1. CONNECT NEW ELECTRICAL EQUIPMENT PER THIS DRAWING.

DRAWING INDEX

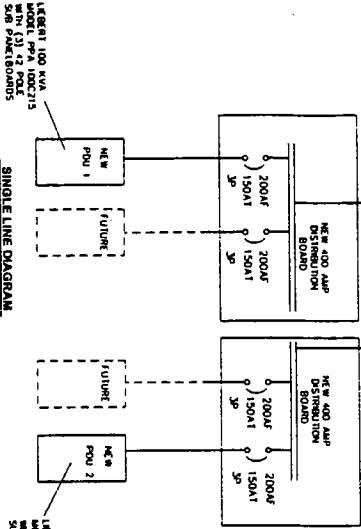
RDMD/AAE PROJECT MANAGEMENT 1102 E. FRONT STREET, SANTA ANA, CA 92701	



PLANNING FOR WORK SCOPE



WE1.1.6  
WE1.1.6



SINGLE LINE DIAGRAM

## LA County Buildout

	Original Est.	Current Est.	Difference
	2000	0	2,000
no explanation provided for these items	1500	0	1,500
	5300	0	5,300
Facility Protection (Modify Halon from 2 Zones to 1 Zone)*	\$ 4,866	7,000	(2,134)
General Construction (Demo of Wall and Cleanup) **	\$ 6,084	8,700	(2,616)
Air Conditioning System (Installation) **	\$ 11,200	11,200	0
Power Distribution Units (2 x 100 KVA PDU) **	\$ 21,156	23,400	(2,244)
Raised Floor (Fill in Raised Floor Structure in wall area) **	\$ 1,000	1,150	(150)
Project Management **	\$ 2,500	2,500	0
Tax (7.75%)	\$ 4,309	4,309	0
Contingency (10%)	\$ 5,561	5,561	0
<b>TOTAL BUILDOUT</b>	<b>\$ 65,476</b>	<b>\$ 63,820</b>	<b>\$ 1,656</b>

### ADDITIONAL WORK NOT INCLUDED IN ORIGINAL SCOPE

Connect Air Handler unit to power source	}	
Connect PDU's to existing J-boxes		
Connect new system to Site Scan		
Change one existing breaker w/ higher capacity to feed two new PDU's		29,000
Change existing feed cables to match new breaker capacity above.		
Add 2 new distribution panels to feed four PDU's		
Change PDU specifications to higher capacity PDU's		
Permit & Inspections		2,180
<b>NEW TOTAL PROJECT COST</b>		<b>\$ 95,000</b>

## EXHIBIT C